S
362.73
P30mfk
1997

Report to the 55th Legislature

MONTANA
Department of Public Health & Human Services
P.O. Box 4210 • 111 N. Sanders • Helena, MT 59604

# MONTANA FAMILIES FOR KIDS

# Ensuring Permanency for Montana Children

STATE DOCUMENTS COLLECTION
AUG 28 2003
MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

CHILD AND FAMILY SERVICES DIVISION

January
1997

MONTANA STATE LIBRARY
3 0864 1002 1439 7

*"The status of a foster child, particularly for the foster child, is a strange one. He's part of a no-man's land. The child knows instinctively that there is nothing permanent about the setup, and he is, so to speak on loan to the family he is residing with. If it doesn't work, he can be swooped up and put in another home. It's pretty hard to ask a child or foster parent to make a large emotional commitment under those conditions."*

*Art Buchwald 1972*

## Part I: BACKGROUND

In 1991, the W.K. Kellogg Foundation's Board of Trustees formally established the Families for Kids (FFK) Initiative. The goal of the initiative is to change the public child welfare system, including both social services and the judiciary, so that the number of children in care who are not in a permanent home is reduced. In 1994, the Department of Family Services (now the Child and Family Services Division) along with the Montana Post Adoption Center, Inc., (now the Montana Adoption Resource Center, Inc.) was one of 11 sites nationwide awarded a grant from the foundation.

The intent of the initiative is to ensure that every child has a permanent home with life-long family connections. The five intended outcomes of the initiative are:

- **Family Support.** All families who are in contact with the child welfare system will have available community-based support and assistance which promotes their ability to solve and/or cope with their problems of everyday family living.

- **Coordinated Assessment.** A coordinated, single assessment process, including family members, will evaluate a family's need for all levels of service.

- **Consistent Casework Services.** A family and child will be provided one case worker or casework team throughout implementation of their permanency plan.

- **Stable Foster Care.** A child placed in foster care will be assured of a single, stable foster placement, within his or her own community, until a permanency outcome is achieved.

- **Swift, Permanent Placement.** Within one year of coming into contact with the system, all children will have a permanent family.

In Montana, a portion of the grant award from the foundation goes directly to the Montana Adoption Resource Center, Inc., while the remainder goes to DPHHS. The Montana Adoption Resource Center, Inc. manages and coordinates the initiative and staffs the Project Management Team, which is the decision-making body for the initiative. The Project Management Team is responsible for directing and managing the initiative. The Project Management Team has the autonomy to act independently of the department and the Montana Adoption Resource Center, and serves as an external voice to these agencies.

The Project Management Team is comprised of representatives from each of the seven reservations in Montana, an urban Indian representative, a representative from the Bureau of Indian Affairs, representatives of the community, judiciary, legislature, foster/adoptive parent association, private adoption agencies, and children's advocates.

The team's decision-making responsibilities include:

- directing the overall planning for the initiative,

- identifying opportunities for change,

- assessing problems and negotiating resolutions, and

- approving standards for evaluation criteria.

Within the department, the responsibility for overseeing and administering the initiative rests with the Child and Family Services Division Management Team. This management team is responsible to see that activities begun as a result of the initiative are internalized within the department's policy and procedures to ensure that the changes will be sustained.

With funds provided under the Kellogg grant, six permanency planning specialists were hired within the department. Five of these positions are located in department field offices, and one is located in the central office.

The duties performed by the Permanency Planning Specialists include:

- conducting case reviews for children in foster care to determine what needs to be done in each case to assure a permanent, stable home for each child;
- providing expert case consultation to staff;
- assisting department and tribal social workers to identify and utilize culturally appropriate resources to implement positive and realistic permanency plan options for children;
- providing technical assistance to department and tribal social workers in preparing families and children for permanent placement;
- arranging and/or conducting training for staff, foster care review committees, Citizen Review Boards, guardians ad litem, attorneys, judges, etc., on key features of permanency planning; and
- educating the general public about the need for permanent, stable homes for Montana's children.

The duties and responsibilities of the permanency planning specialists are an integral part of the department's efforts to achieve timely permanent placement for children in care. In the past, their duties and responsibilities have been inadequately met due to staff shortages. The need for the permanency planning specialists is on-going.

In addition to the work that is being done by the state permanency planning specialists, each of the seven reservations has staff actively working toward improving permanency outcomes for their children. Some reservations have hired permanency planning specialists. One hired an attorney to handle cases in which parental rights were to be terminated or adoptions completed. These positions are partially funded by the Kellogg Foundation. Tribal social service staff, BIA social services staff and the department's permanency planning specialists, as well as other department staff, are working cooperatively in developing appropriate permanent plans for Native American children.

## Part II: PERMANENT PLACEMENT PLAN

### WHO ARE THE CHILDREN?

The department is committed to a philosophy of permanency planning that begins with the first contact by the department with the child's family. Based on this philosophy, all children for whom the department has any responsibility for placement decisions are impacted by the department's placement policies.

The underlying philosophy of permanency planning is the belief that each child needs and has a right to a stable, permanent home which will meet the child's needs, including the need for lifetime family connections.

Historically, most children in foster care at any given time will eventually be returned to their birth parents. The percentage of children who are returned home is believed by some to be decreasing, meaning that more of the children who come into foster care will need a permanent home. However, at the present time, there is no accurate data with which to prove or disprove this theory.

For those children who are not returned to their birth family, some are likely to remain in foster care throughout their childhood. They are not legally free for adoption and are unlikely to become legally free due to legal or cultural issues. Alternative permanent placement options must be developed for these children (see placement priorities).

A disproportionate of children in care at any given time are Native American. Available data suggest that the percentage of Native American children in care increases relative to the length of time in foster care placement.

Some of the Native American children in foster care are under the jurisdiction of tribal courts. The remainder are under the jurisdiction of state courts and are covered by the Indian Child Welfare Act (ICWA).

The Indian Child Welfare Act was passed in 1978 to address the high rate at which Indian children were removed from their families and placed in foster care, and in many instances, adopted by non-Indian parents.

Among other provisions, ICWA mandates that an Indian child's tribe be provided notice of any state court action regarding an

Indian child. This gives the tribe the right to intervene or to request that the case be transferred to tribal court. Even if the case remains in state court, the court must follow specific procedures as outlined in the Act. (See additional information regarding ICWA under placement priorities.)

The custody status of children in foster care ranges from parental agreement (voluntary placement by the parents) to permanent legal custody with the right to consent to adoption. Temporary legal custody is the most common legal status. Under current state law, parental rights must be terminated in order for a child to be adopted. In adoptions arranged by the department, not only must parental rights have been terminated, the court must also grant the department the right to consent to the child's adoption.

Some children in foster care have problems of such a serious nature that an adoptive family can not be located, or placement in a family setting is inappropriate due to the severity of the child's behavior. The least restrictive placement options suitable for these children may never include permanent placement with a family.

**WHAT IS PERMANENT PLACEMENT?**

Permanent placement is placement with a family in which the realistic expectation by the child, as well as by the agency and the adults in the family, is that the child will be cared for by this family throughout his/her childhood and will be identified as part of this particular family throughout the child's lifetime. Whenever feasible the child's membership in the family is further defined by legal adoption or guardianship.

Permanent placement is intended to fulfill the needs of children for a safe, stable life-time relationship with a consistent adult. The relationship may be provided by the child's birth parent(s), adoptive parent(s), guardian, or foster parent(s), any one of which may be the child's biological relatives.

**WHAT ARE THE PLACEMENT PRIORITIES?**

The department has determined that the following succession of placement priorities provides the most permanency and has the most potential for continuity for a given child:

- return home;

- adoption by a relative, by current or former foster parents or by another person;
- guardianship by a relative, by current or former foster parents or by another person;
- permanent foster (family) care with a relative or with current or former foster parents; and
- independent living (child leaves care when he becomes of legal age).

Placement priorities for Native American children are governed by the preferences set by the ICWA. Preferences for a Native American child placed in foster care or with a pre-adoptive family are placement with:

- a member of the Indian child's extended family;
- a foster home licensed, approved or specified by the Indian child's tribe;
- an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the child's needs.

If an Indian child is to be adopted, the placement priorities, absent good cause to the contrary, are placement with:

- a member of the child's extended family;
- other members of the Indian child's tribe; or
- other Indian families.

An Indian child's tribe may establish a different order of preference by resolution as long as the placement is in the least restrictive setting appropriate to the needs of the child.

Good cause may be established to modify the above-stated preferences based on the request of either the parent or the child if the child is of sufficient age, or the physical and emotional needs of the child have been established by expert witness testimony, or after diligent search, no suitable Indian family has been identified.

**WHAT ARE THE BARRIERS THAT PREVENT PERMANENT PLACEMENT?**

For many children, successful, permanent placement with a family is not accomplished easily. Numerous barriers have been identified which impede permanent placement for many of children in foster care. Implementing changes to reduce or eliminate these barriers is not a quick or easy process. Barriers that have been identified include:

- lack of family preservation services and appropriate parenting classes;
- inadequate number of approved families willing to make a lifelong commitment to children with special needs;
- lack of available services to meet the special needs of these children;
- inadequate post adoption services;
- lack of active adoptive parent support groups;
- inability of the agency to provide subsidized guardianship payments;
- the level of the special needs of some children in need of permanent homes;
- lack of staff;
- high staff turnover;
- inadequate staff training;
- cultural beliefs defining what is a "permanent placement";
- negative attitudes toward adoption;
- belief that long-term foster care is an acceptable option for children;
- potential permanent families inability to meet approval requirements;
- legal delays (overloaded court system);

- reluctance to terminate parental rights; and
- conflicts/communication barriers within the system

Many of these same barriers exist for Native American children in the custody of tribal courts. One tribe faces an additional barrier of an ordinance that prohibits adoptions. Changes in tribal councils and tribal judges have presented additional barriers on some reservations.

**WHAT HAS BEEN ACCOMPLISHED?**

**Training:**

A major component of system change in Montana includes training for public and private agency social work staff, foster and adoptive parents, other service providers and court personnel. Three topic areas approved by the Project Management Team are concurrent planning, cultural competency and the two curriculums developed by the Montana Adoption Resource Center, Inc., *Preparing Families for Permanent Placement* and *Becoming a Lifelong Family*.

**Concurrent Planning:**

Training was provided at three sites between April and September, 1996. Skill building training for social work staff in the use of concurrent planning is planned for this year. Training for foster and adoptive parents on the concept of concurrent planning, including their role as potential permanency families, is also planned for this year.

**Cultural Competency:**

Training was conducted at two sites in the past year, as well as being a major component at the Indian Child Welfare Conference held in October, 1996. This conference was the joint effort of the department and three reservations. The conference was widely attended.

**Preparing Children for Permanent Placement:**

Training has been presented in several sites throughout the state, and a "train the trainers" seminar is scheduled for February, 1997.

**Becoming a Lifelong Family**:

A "train the trainers" seminar is scheduled for January, 1997.

**Montana Child Abuse and Neglect (MCAN)**:

This training, which is the only training presently required for all new social workers, will be revised to accommodate the changes in goals of the Child and Family Services Division. In addition, a revision is necessary to reflect changes in social work practice.

The revised training curriculum will include increased emphasis on:

- permanency planning;
- coordinated assessments;
- concurrent planning;
- Indian Child Welfare Act; and
- cultural competence.

The curriculum will retain the elements of investigation and court action which are necessary for new workers to know, but will weave the elements identified above into the training. The curriculum will include a greater emphasis on the policy and procedures of the division.

The department intends to enter into a contract with the University of Montana to produce a new curriculum, with an expected delivery date in the fall of 1997.

**Foster and Adoptive Parent Training**:

For the past several years, available training has been mainly limited to the curriculum adopted by the department in 1988, *Model Approach to Partnerships in Parenting/Group Preparation and Selection*. A recent decision was made to search for another curriculum that will provide a pre-service preparation and selection process for foster and adoptive parents that can be delivered in a way that is less costly and more responsive to the needs of the department and to potential foster and adoptive parents.

This new curriculum will allow the department more flexibility in use of the funds allocated to provide foster and adoptive parent

training and will provide the means to offer ongoing training opportunities. The lack of ongoing training available to foster and adoptive parents has been identified as a contributing factor to disrupted placements. Providing families with the tools that will help them cope with the special needs of children suffering from the effects of abuse and neglect will result in more stable placements for these children.

**Permanency Planning and ICWA:**

Training in the areas of permanency planning and the Indian Child Welfare Act for county attorneys, judges, multi-disciplinary team members and other interested parties is being developed and will be presented this year. The development of the training is being accomplished in conjunction with the Office of the Supreme Court Administrator, the Court Assessment Project, the Montana Coalition Against Domestic Violence, the Montana Council for Families, tribal representatives and others.

The training will incorporate the technical aspects of ICWA as well as cultural considerations in the placement of Native American children. In addition to the necessity of placing Native American children with Native American families as required by ICWA, permanent placement alternatives such as guardianship must be considered and training will focus on these issues of permanency as well.

**Services:**

The department is in the initial stages of incorporating innovative tools into casework services provided by social work staff.

**Coordinated Assessment:**

Under contract with the Montana Adoption Resource Center, Inc., the University of Montana has developed a draft Coordinated Assessment Plan. Implementation of the plan in 1997 is intended to result in social workers and other service providers making a determination of service needs by gathering information provided by all pertinent people, i.e, family members, other service providers, etc. The assessment will include possible actions and outcomes.

Explicit assessment can greatly enhance parental involvement and encourage family members to provide information about the family's situation from their perspective which in turn promotes

more responsibility by family members for results. Assessment as a formal step assures that care has been taken to include the child and family in the development an individualized plan designed to meet their needs.

**Concurrent Planning**:

Skill-building training in the implementation of concurrent planning techniques in a public agency with limited resources is planned. Concurrent planning combines parental rehabilitation with an understanding that adoption or other permanent placement might be the best outcome for the child. Whenever possible, placement is made with foster families that are willing to work towards reunification or to become permanent parents if reunification is not possible.

The components of concurrent planning include:

- early case planning with a case plan developed within the first month;
- placement in consultation with the parents;
- intensive services to parents;
- contracting to clarify expectations of the parents and agency; and
- frequent visits between parent and child.

**Family Preservation Conference**:

The Family Preservation Conference (also known as a Family Group Conference) is used to help families plan what is best for their children when issues of abuse or neglect are a concern. The Family Preservation Conference gives families the opportunity to plan for the care and protection of their children and to actively participate in the implementation of the plan for their children's future.

A major benefit of the Family Preservation Conference is that it can help prevent non-relative foster care placements or shorten the time that a child is in out of home care. Since the family develops the plan to provide the best possible place for the child to be or other elements to insure the child's safety, the family has more of an investment in the implementation of the plan.

The Southwest Region has hired an experienced staff member to implement, train and model Family Preservation Conferences. A staff person is expected to be hired by the Western Region to serve in this same capacity. These two staff will have some availability to travel to other areas of the state to model the use of Family Group Conferences.

**Permanency Teams**:

An internal review process to staff cases of children in foster care and in need of permanent placement now exists in some form in most areas of the state. In some areas there is a formal process with scheduled team meetings, in other areas the process is less formal. The review process identifies barriers to permanent placement, as well as an action plan to overcome the barriers. The meetings also serve as an opportunities to educate staff on the needs of children for permanency in their lives.

***Treasure Book***:

Catholic Social Services for Montana, in cooperation with the department, produces a photo listing book. The book features a short narrative and photo of children for whom an adoptive home is being sought. The photo listing book entitled, *Treasure Book*, is located in numerous locations throughout the state. Interested persons can call a toll free number to obtain information about a particular child or adoption in general. A packet of information is sent to interested callers, and a referral is sent to the appropriate regional permanency planning specialist for follow up.

**"A Waiting Child"**:

With financial assistance from Wendys of Montana and KTVQ television in Billings, children for whom an adoptive home was being sought were featured on television in the Billings viewing area during the late spring and early summer of 1996.

In addition to featuring waiting children, each weekly segment emphasized the need for adoptive homes for children in Montana. A toll free number was provided during the weekly segments for viewers to call if they were interested in learning more about a specific child or if they wanted information about the location of the *Treasure Book* or about adoption in general.

It is anticipated that during the spring of 1997, "A Waiting Child" program will again be aired, this time on a statewide basis.

There are three major areas in which the department hopes to develop services which will increase the likelihood of permanent placement for waiting children.

**WHAT ARE THE FUTURE GOALS:**

**Post Adoption Services:**

For many adoptive families, especially those that adopt children with special needs (which may include a history of physical, emotional or sexual abuse), the availability of ongoing support can mean the difference between a disrupted adoption or a continued successful placement. Many of the children placed adoptively by the department have been severely traumatized. Most parents are not prepared to deal with the problems that may surface as a result of the child's history.

The department does not presently have staff assigned to provide post adoption services, nor does the department have funds to contract for these services. The department intends to assess the specific needs for post adoption services and develop a plan for delivery of those services. This need is closely tied to the need for a therapeutic adoption program.

**Therapeutic Adoption Program:**

The need for a therapeutic adoption program in Montana has been identified. Such a program would operate much like existing therapeutic foster care programs. The most significant difference would be that families recruited for such a program would be making a permanent commitment to a child or children placed with them. Supportive services (post adoption services) would be available to the family as needed. The department is exploring such programs in other states and is actively discussing this concept with an already existing therapeutic foster care program in Montana.

**Subsidized Guardianship:**

Adoption is not an option for some of the children who will come into the care or custody of the department or tribal court due to legal or cultural issues. For children who can not be adopted for whatever reason, there is currently no means to provide

continued financial support to the family caring for the child other than continuing the placement of the child in foster care to retain eligibility for foster care payments.

Subsidized guardianship would allow the family caring for the child to assume legal responsibility for the child while providing necessary financial support to allow the child to remain with the guardianship family.

To enable the department to provide subsidized guardianship in a cost neutral manner, two initial steps that needed are:

- change the state statute to allow the department to make subsidized adoption payments, and
- obtain a waiver from the federal government to allow the use of IV-E foster care funds to be used for subsidized guardianship payments.

**PART III. LEGAL REFORM:**

**Adoption Law Review:**

The 1995 Legislature directed the department to conduct a study of Montana's adoption laws. This study was completed through the use of a task force comprised of interested parties including adoption professionals, lawyers, adoption triad members and department staff.

The task force identified four goals that they hoped their review and subsequent recommendations would produce. The task force wanted:

- the statutes to be clear and easy to understand;
- the responsibilities of all parties to be identified;
- the adoption codes would be in one place; and
- the current statutes to be deleted and replaced.

Following an in depth review of the current statutes, as well as the Uniform Adoption Act and review of some other state statutes, the task force concluded that sections of the current statute could be kept in their entirety as could others with only minor modification. Other provisions were borrowed from the UAA or other state statutes.

To gain public comment before the final draft was completed, hundreds of copies of the draft legislation were sent out. In addition, a public hearing was held in early November. Comments that these efforts generated were considered by the task force and many were incorporated into the final draft.

Great effort was made throughout the development of this legislation to balance the rights of all affected parties. The proposed legislation has been introduced in the current legislative session as House Bill 163.

**Court Assessment Project:**

The Office of the Administrator of the Supreme Court is the recipient of federal funds to conduct an assessment of Montana's courts. The Court Assessment Project is designed to improve the state courts' handling of child welfare cases. The department and the staff of the project work closely to ensure that efforts are not duplicated and are compatible. Staff from the Families for Kids initiative serve on the advisory board for the Court Assessment Project, and staff from the Court Assessment Project participated in the task force to revise the adoption statutes.

The Court Assessment Project is proposing legislation that will:

- provide time lines to facilitate the progress of child welfare cases through the court system;
- clarify the existing statutes to facilitate consistency and understanding of temporary orders; and
- require the court to hold a permanency plan hearing 12 months after the initial order is issued.

As indicated above, the Court Assessment Project is working with other groups to develop training in the areas of permanency planning and the Indian Child Welfare Act.

## PART IV. PUBLICITY

In addition to the publicity provided by the *Treasure Book* and "A Waiting Child" which were mentioned above, the department developed a made-for-television Public Service Announcement that ran statewide during the month of November. Included in the PSA is the toll free number to call for information about adoption or to learn about *Treasure Book* sites.

The department has also developed an information packet which has been distributed statewide. The packet provides basic information about the initiative and is intended to educate the public about the need for permanent homes for Montana's children.

## PART V. SUMMARY

Ensuring that every child that comes into foster care is placed in a permanent home within a year continues to be a challenge for the department. The barriers that have been identified that prevent or delay timely permanent placement are formidable. For many children, multiple barriers are factors in achieving a permanent placement in a time frame that meets the needs of the child.

The department's knowledge that permanent placement is best for children means the department's commitment to achieving permanent placements in a timely manner for all children must remain strong, in spite of the challenges. The department remains committed to pursuing a permanent family with lifelong connections for every child.